

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIAN ANTHONY DAVIS,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 006-25 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on February 7, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 14], filed on November 17, 2006, recommended that Defendant's motion to dismiss or motion for summary judgment [Doc. No. 10] be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 8th day of December, 2006;

IT IS HEREBY ORDERED that the Defendant's motion to dismiss or motion for summary judgment [Doc. No. 10] is DENIED.

The Report and Recommendation [Doc. No. 14] of Magistrate Judge Baxter, filed on November 17, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge